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June 18, 2014

By ECF

Hon. Joan M. Azrack
United States Magistrate-Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

**Re: Government Employees Insurance Company, et al. v. Sky Medical
Supply, Inc. et al.
Docket No.: CV 13-6840 (WFK)(JMA)**

Dear Magistrate Judge Azrack:

I write in response to the Court's April 7, 2014 Order.

As the Court is aware, this case has been stayed for the past number of months to allow for a decision by Judge Bianco in the action entitled *Sky Medical Supply, Inc. v. SCS Support Claims Services, Inc. et al.*, 12 CV 6383 (JFB)(the "SCS Litigation").

On May 7, 2014, Judge Bianco issued a decision in the SCS Litigation dismissing Sky Medical Supply, Inc.'s RICO claim without prejudice and declined to exercise supplemental jurisdiction over Sky's state law claims. The deficiency in the RICO claims identified by Judge Bianco related to the lack of specific allegations in the pleading identifying the damages that were alleged to have been sustained by the provider. On June 6, 2014, Sky Medical Supply, Inc. filed an Amended Complaint. While we will not comment on the substance of the claims, what is important is that the damages alleged to have been sustained in the most recent pleading total \$149,202.25, only involve claims that which have either been tried and lost by the provider or settled by the provider with insurers, and involve claims with dates of service between 2006-2009.

At this point, the claims that GEICO has asserted against Sky Medical Supply, Inc. in this action seeking recovery of voluntary claim payments made and a declaration regarding unpaid claims do not overlap with the claims for recovery that Sky Medical Supply, Inc. has asserted in the SCS litigation, and therefore, an impediment to settlement and/or the litigation of this matter no longer exists.

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I have discussed this with Mr. Tsirelman who represents the defendants in this case. We would jointly request two (2) weeks to discuss a possible settlement of the case, and would propose to report back to the Court on July 2, 2014 regarding the progress of our efforts.

We thank the Court for its attention to this matter.

Respectfully submitted,

RIVKIN RADLER LLP


Barry I. Levy

cc: All counsel of record